



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/297,737	05/04/2001	Juliette Quartararo	PET-1761	1202

23599 7590 12/09/2003

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER

GRIFFIN, WALTER DEAN

ART UNIT PAPER NUMBER

1764

DATE MAILED: 12/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action**Application No.**

09/297,737

Applicant(s)

QUARTARARO ET AL.

Examiner

Walter D. Griffin

Art Unit

1764

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 October 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ they raise the issue of new matter (see Note below);
(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☒ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 2-6, 8-10, 12-15, 17-19 and 21-26

Claim(s) withdrawn from consideration: _____

8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: See Continuation Sheet


Walter D. Griffin
Primary Examiner
Art Unit: 1764

009/297,737

Continuation of 5. does NOT place the application in condition for allowance because of the following reasons. The declaration filed on October 2, 2003 has been considered but is not effective in overcoming the rejections of record. The data presented in the declaration are not commensurate in scope with the claimed invention. The claimed invention is not limited to the specific catalyst described in the declaration.

The argument that the Bjornson reference does not teach or suggest that additional or other promoters may be used is not persuasive because the rejection is based on a combination of references and the motivation to modify the Bjornson reference comes from the teachings in Sudhakar and Bijwaard references that teach that the additional components promote hydrotreating catalysts. Therefore, the examiner maintains that one of ordinary skill in the art would expect that adding the promoters of Sudhakar and Bijwaard to the catalyst of Bjornson would result in an effective hydrotreating catalyst.

The argument that the "consisting of" language of claims 23, 25, and 26 excludes the zinc component of Bjornson is not persuasive because claim 23 "consists of at least one matrix". This language does not exclude the zinc component of Bjornson because the zinc component is a matrix component and claim 23 can contain any number of different matrixes.

Continuation of 10. Other: The request to withdraw the finality of the last office action is denied because the amendments to claims 9 and 22 changed the scope of each of these claims thereby necessitating the new grounds of rejection.

Regarding claim 17, it is clear from the cover page and the fact that claims 15 and 21 are rejected that claim 17 is also rejected over the grounds of record. The lack of indication that claim 17 is rejected in the office action itself results from an obvious typographical error.